

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

DIVISION OF ENERGY

IN THE MATTER OF THE PETITION OF NUI)
UTILITIES, INC. D/B/A ELIZABETHTOWN)
GAS COMPANY FOR APPROVAL OF)
INCREASED BASE TARIFF RATES AND)
CHARGES FOR GAS SERVICE AND)
OTHER TARIFF REVISIONS)

ORDER ADOPTING
STIPULATION AND
INITIAL DECISION

DOCKET NO. GR02040245
OAL DOCKET NO. PUC3719-02

(SERVICE LIST ATTACHED)

BY THE BOARD:

On April 16, 2002, NUI Utilities, Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking an increase in base tariff rates designed to produce approximately \$28.6 million of additional annual revenues, an increase of 9.3%, as well as approval for revisions to its depreciation rates and additional tariff changes. The Company's filing was based on a test year consisting of the twelve months ending May 31, 2002, with 5 months of estimated data and 7 months of actual data. The petition was accompanied by the testimony of twelve witnesses. Following the conclusion of the test year, the Company updated its test year data to reflect twelve months of actual data through the end of the test year. Based on these actual test year results, the Company asserted that it could justify rate relief in the amount of \$33.4 million annually. However, the Company's rate relief request remained at \$28.6 million annually.

By Order dated May 6, 2002, the Board suspended the proposed tariff revisions until September 16, 2002. On August 22, 2002, the Board further suspended the proposed tariff revisions until January 16, 2003.

On April 22, 2002, the Company's filing was transmitted to the Office of Administrative Law ("OAL") as a contested case and assigned to Administrative Law Judge ("ALJ") William Gural. A prehearing conference was held on June 20, 2002. Evidentiary hearings were scheduled on October 7 through 11 and October 21 through 25, 2002 at the Office of Administrative Law, 33 Washington Street, Newark, New Jersey. Public hearings were held on September 17, 2002 in Rahway and September 18, 2002 in Flemington.

The Division of the Ratepayer Advocate ("the Ratepayer Advocate", "RPA"), the Board's Staff ("Staff"), General Motors Corporation ("GM"), and the New Jersey Large Energy Users Coalition ("NJLEUC"), the parties to this proceeding, propounded over 900 discovery requests upon the Company. The Ratepayer Advocate submitted testimony by six witnesses responding to the

Company's filing. The Ratepayer Advocate recommended that the Company be afforded rate relief in the amount of \$7.469 million annually. NJLEUC submitted the testimony of two witnesses. The Company responded to the intervener's testimony with rebuttal testimony from ten witnesses.

Representatives of the Company, Staff, the Ratepayer Advocate, NJLEUC, and GM have met to resolve the matters at issue in this proceeding. Notice of these settlement meetings was provided to all parties. As a result of these meetings, on November 7, 2002, the parties executed the attached Stipulation, which resolves all issues in this proceeding in a manner that all parties consider to be fair and reasonable. The salient points of the Stipulation are as follows:

The parties have agreed that the Company will be permitted to increase its rates effective on the date of the final Board Order approving the Stipulation. Rates will increase in a manner designed to produce a total annual revenue requirement of \$332,046,000, an increase of \$14,225,000 annually or approximately 4.9%. This revenue requirement, after adjustment for purchased gas costs and other pass-through expenses, will be recovered over volumes derived using a twenty-year weather pattern, which will remain the degree day benchmark until the next base rate case. This revenue requirement reflects an after-tax return on equity of 10.00%, and an overall return on rate base of 7.95%. The Company's depreciation rates will remain unchanged.

The parties have further agreed that the revenue increase will be allocated to all firm service classifications on a uniform percentage basis, net of gas costs except to: (1) the portion of Multi-Family Service service classification having normalized annual consumption of 3,000 therms or more; (2) the Temperature Control service classification; and (3) the Industrial Process Fuel service classification. The Multi-Family Service, Temperature Control and Industrial Process Fuel service classifications will receive an allocation of costs consistent with the stipulated rate design described below. Unless otherwise specified, the increase will be allocated to all components of each firm service classification's rate structure on a uniform percentage basis, net of gas costs.

In allocating costs and designing rates, the parties have agreed that the Company will be permitted to:

- (i) maintain the existing \$0.0994 differential between the first 35 therm block and the over-35 therm block for the Residential Delivery Service service classification;
- (ii) combine all customers in the existing General Service and Multi-Family Service service classifications having normalized annual consumption of less than 3,000 therms into a new Small General Service bundled sales service classification. Small General Service will have a rate structure consisting of a Service Charge of \$16.00 per month and a Distribution Charge of \$0.2950 per therm inclusive of all taxes and assessments;
- (iii) include all existing Multi-Family Service service classification customers having normalized annual consumption of 3,000 therms or greater in the Multi-Family Service service classification which will be closed to new customers as of December 1, 2002. The Multi-Family Service service

classification will have a rate structure consisting of a Service Charge of \$16.00 per month, a Demand Charge of \$0.802 per therm of peak demand and a Distribution Charge of 0.1609 per therm inclusive of all taxes and assessments;

- (iv) continue to include all existing Temperature Control service classification customers, closing this classification to new customers as of December 1, 2002. The Temperature Control service classification will have a rate structure consisting of a Service Charge of \$16.00, a Demand Charge of \$0.338 per therm of peak demand, and a Distribution Charge of \$0.0548 per therm, inclusive of all taxes and assessments. The Temperature Control service classification will also have a Commodity Charge set between a ceiling and a floor in the manner set forth in Elizabethtown's current tariff;
- (v) include all existing Industrial Process Fuel service classification customers in an Industrial Process Fuel service classification which will be closed to new customers as of December 1, 2002. The Industrial Process Fuel service classification will have a rate structure consisting of a Service Charge of \$273.06, a Demand Charge of \$0.441 per therm of peak demand, and a Distribution Charge of \$0.0419 per therm, inclusive of all applicable taxes and assessments, plus the Basic Gas Supply Service charge set forth in Rider A to the Company's tariff or such other charge as determined in accordance with Elizabethtown's current tariff;
- (vi) combine all General Transportation Service, Semi-Bundled Transportation Service, Small General Transportation Service, and Commercial Air Conditioning customers, and also all customers in the existing General Service service classification having normalized annual consumption of 3,000 therms or greater into a new General Delivery Service service classification. Customers taking service under the General Delivery Service service classification will have the option of purchasing Basic Gas Supply Service from the Company. General Delivery Service will have a rate structure consisting of a Service Charge of \$16.00 per month, a Demand Charge of \$0.802 per therm of peak demand, and a Distribution Charge of \$0.1936 per therm, inclusive of all taxes and assessments;
- (vii) include in its tariff a Large Volume Demand service classification having a Customer Charge of \$470.72, a Demand Charge of \$1.026 per therm of peak demand, and a Distribution Charge of \$0.0368 per therm, inclusive of all taxes and assessments;

The parties have agreed that the Company's rates reflect the amortization of deferred rate case expenses of \$341,000, which will be amortized over a three-year period, and deferred costs associated with the retirement of the Company's Erie Street propane plant of \$2,461,606, which will be amortized over a five-year period. In addition, consistent with the Board's Orders dated March 30, 2001 in BPU Docket Nos. GX99030121 and GO99030122 and August 1, 1996 in BPU Docket No. GR95090440, the Company's base rates no longer reflect any costs associated with the testing, containment and remediation of the Company's former manufactured gas plant sites.

The Company has withdrawn its proposals to (i) assess balancing charges to RDS customers in the event of a default by a Third Party Supplier, (ii) retain certain developer's deposits, (iii) recover interest on Basic Gas Supply Service underrecovery balances, (iv) establish a Customer Technology Clause and a System Improvement Adjustment Clause, and (v) establish a Negotiated Gas Service service classification. The Company has also agreed to modify, beginning in the month the Stipulation becomes effective, its monthly cash-out mechanism applicable to transportation services, so that overdeliveries between 0% and 5% will be cashed out at the Company's weighted average commodity cost of gas as reflected in its Interruptible Service floor price for the applicable month. The Company has further agreed to modify Section 7.09 of the Standard Terms and Conditions of its tariff to state that late payment charges shall not exceed the lesser of 18% or the highest rate allowed by law. The Company will also eliminate a proposed \$3.00 service charge for credit card payments reflected in Section 7.10 of the Standard Terms and Conditions to its tariff and has withdrawn its proposed increase in its returned check charge from \$10 to \$15 reflected in Section 7.10.

Within 90 days of the effective date of this Stipulation, the Company will meet with the Staff, the Ratepayer Advocate and other interested parties to discuss possible modifications to the Company's bill format. The parties have reserved the right to further review the provisions of the Company's tariff that set forth the rates and terms of the Economic Development Service. The Company will provide Staff and the Ratepayer Advocate with an annual report summarizing the Company's performance with respect to field services, call center, customer complaint and collection performance. Elizabethtown has agreed to a one-time charitable contribution in the amount of \$500,000, which will be made available to the New Jersey Department of Education for use as the Commissioner of Education sees fit. This amount will be paid for by the shareholders of Elizabethtown and will not be recovered through utility customer rates. Additionally, the Company has agreed in its next base rate case filing (1) to propose to eliminate at least 50% of the existing difference between the rate blocks in its Residential Delivery Service service classification, and (2) to identify and quantify in its testimony and exhibits the return by class reflected in its proposed rates. Each party reserves its rights to challenge the Company's proposed rates.

On November 15, 2002, the ALJ submitted to the Board, his Initial Decision concluding that the Stipulation meets the requirements of N.J.A.C. 1:1-19.1, and that the Stipulation should be approved. The ALJ further ordered that the parties comply with the terms of the Stipulation.

DISCUSSION AND FINDINGS

Having reviewed the Stipulation and the Initial Decision, the Board is satisfied that the Stipulation represents a fair and reasonable resolution of the complex issues and is in the public interest. The Stipulation will provide the Company with additional revenues in order to permit it to meet its statutory obligations to continue to operate and maintain its gas distribution system for the benefit of its gas customers in a safe, adequate, and reliable manner. The Board further finds that the proposed Stipulation is the result of intense arms-length negotiations among the parties and is responsive to and balances the respective needs of both the utility and its customers to manage gas rates and ensure distribution system reliability. Accordingly, the Board HEREBY ADOPTS the attached Stipulation and the Initial Decision as its own, and incorporates their provisions herein, as if they were fully set forth herein, effective on the date of this Order.

The Board HEREBY DIRECTS the Parties to comply with the terms and conditions incorporated

within the Stipulation and Initial Decision and FURTHER DIRECTS the Company to file a final tariff in compliance with the terms of this Order and the Stipulation, no later than 10 days from the date of this Order.

Approval of the Stipulation and related tariff design shall not affect or limit the Board's statutory authority in any future Elizabethtown Gas Company proceeding.

DATED: 11/22/02

BOARD OF PUBLIC UTILITIES

BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

I concur with the decision of the majority of the Board to adopt the Stipulation for the reasons described above. However, I have a strong concern regarding the provision in the Stipulation which provides for \$500,000 to be made available to the New Jersey Department of Education for use "as the Commissioner of Education sees fit."

Given that the source of these funds is derived from a New Jersey energy utility, and that energy conservation is an important component of the State's energy policy, this \$500,000 should be dedicated to implement educational curricula and/or programs which address energy conservation, security and other energy related issues.

(SIGNED)
CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY